IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1031 OF 1987

The Special Land Acquisition
Officer, Thane ....Appellant

V/s.

Bajirao Vithal Patil,
Hindu, Agriculturist,
aged 50 years, residing at
Rahanal, Taluka Post Bhiwandi,
District Thane ....Respondent

Mr.S.N. Gawade, A.G.P. for the Appellant.

Mr.L.S. Gaikwad for the Respondent.

CORAM : S. RADHAKRISHNAN &
S.J. VAZIFDAR, JJ.
DATED : 17TH SEPTEMBER, 2004.

ORAL JUDGMENT (PER S. RADHAKRISHNAN, J.) :

1. By this First Appeal, preferred by the State Government, there is a challenge to the enhancement of compensation granted by the Reference Court under Section 18 of the Land Acquisition Act, 1894 (hereinafter refer to as "the said Act" for brevity and convenience).

2. The brief facts are that the lands of the Respondent admeasuring 10630 sq.mtrs. from Gat No.695/1 and another land admeasuring 5730 sq.mtrs. from Gat No.696/1 from village Anjur, Taluka Bhiwandi, District Thane were acquired for the purposes of laying water pipe lines to bring an additional water supply to the city of Mumbai. In that behalf, a notification under Section 4 of the said Act was published on 11th May, 1986. Then notification under Section 6 of the said Act was published on 13th August, 1987 and ultimately an Award came to be passed on 31st March, 1983.

3. It appears that the S.L.A.O. after taking into consideration all the material on record especially the location of the land, frontage, sale instances etc. had awarded the compensation at the rate of Rs.70,000/- per hectare, i.e. Rs.7/- per sq.mtr.

4. Aggrieved thereby, the original Claimant had preferred a reference under Section 18 of the said Act before the Joint District Judge, Thane by way of a reference. The Reference Court after taking into account all the facts and circumstances as well as material on record, has increased the compensation to Rs.50/- per sq.mtr. from Rs.7/- per sq.mtr. We have

perused the judgment of the Reference Court. The Reference Court has strongly relied on the judgment delivered in four Land Acquisition References viz. L.A.R. Nos.66 of 1987, 91 of 1987, 143 of 1987 and 142 of 1987 wherein the lands were situated at village Majiwada. All the certified copies of the judgment and decree in the aforesaid four Land Acquisition References were tendered in evidence before the Reference Court. The Reference Court has referred to the fact that in all the aforesaid four Land Acquisition References mentioned herein above, the lands situated were hardly half a k.m. away from the lands which are in question in the present Appeal. The lands involved in these four Land Acquisition References were also having paddy crops and even in the present case, the lands which have been acquired, paddy crops have been grown. The learned Reference Court had also referred to an admitted fact that the said village Majiwada in fact forms part of Thane Municipal Corporation. Having regard to all the aforesaid facts and circumstances, especially in view of the fact that in the aforesaid four Land Acquisition References, the market value was fixed by the Reference Court between at Rs.75/- and Rs.60/- per sq.mtr. and in the instant case, the Reference Court has fixed the quantum of compensation at Rs.50/- per sq.mtr. and accordingly

the compensation has been enhanced.

5. Mr.Gawade, the learned A.G.P. appearing for the State of Maharashtra - Appellant herein, sought to contend that the aforesaid enhancement is erroneous and the same is not based on any material. The learned A.G.P. also contended that the S.L.A.O. has rightly fixed the compensation at Rs.7/- per sq.mtr., whereas the same has been wrongly increased to Rs.50/- per sq.mtr. by the Reference Court.

6. Mr.Gaikwad, the learned counsel appearing for the Respondent - original Claimant strongly contended that in fact the said land is very proximate to Thane Municipal Corporation in the sense the present land is hardly half a k.m. away from the village Majiwada which forms part of Thane Municipal Corporation. He also contended that the entire area has been developed with a number of housing complexes. The learned counsel appearing for the Respondent fairly stated that Respondent’s land was being used for agriculture purpose at the relevant time for growing paddy crops and in view of potentiality involved and also as the land is very proximate to Thane Municipal Corporation and especially in the light of the judgments in four L.A.R. Nos.66 of 1987, 91 of 1987, 143 of 1987 and 142

of 1987, wherein the Reference Court therein had fixed the market value at Rs.75/- and Rs.60/- per sq.mtr. which lands were very much comparable to the lands involved in the present appeal and they are all situated adjoining the village Majiwada. In the instant case, the learned counsel appearing for the original Claimant - Respondent herein contended that the Reference Court has rightly increased the said compensation to Rs.50/- per sq.mtr. from Rs.7/- per sq.mtr. based on the aforesaid material.

7. After having heard both the learned counsel and after perusal of the judgment of the Reference Court and evidence on record, the sole issue is whether the Reference Court’s order of enhancing the compensation from Rs.7/- per sq.mtr. to Rs.50/- per sq.mtr. is based on acceptable evidence. There is no dispute in this case that in the aforesaid four Land Acquisition References, the Reference Court had increased the compensation to Rs.75/- and Rs.60/- per sq.mtr., and these orders are final. The lands situated in those four Land Acquisition References as well as the present case are almost identical in the sense both the lands are situated hardly half a k.m. from the village Majiwada and in both the cases the lands have been used for agriculture purpose viz. paddy crops. Under these

circumstances, we are in full agreement with the reasoning adopted by the learned Reference Court while enhancing the said quantum of compensation and there is nothing erroneous, perverse or illegal. Hence we find this appeal to be devoid of merits, therefore the same stands dismissed, however with no order as to costs. In view thereof, the Respondent - original Claimant is entitled to withdraw the entire amount from the Reference Court with all the accrued interest without furnishing any security in that behalf.

. Parties to act on an ordinary copy of this order duly authenticated by the Associate/Court Stenographer of this Court.

(S. RADHAKRISHNAN, J.)

(S.J. VAZIFDAR, J.)

IN THE HIGH COURT OF JUDICATURE AT BOBBY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1031 OF 1997

DATE OF DECISION : 17TH SEPTEMBER, 2004.

For Approval and Signature :

HON'BLE MR.JUSTICE S. RADHAKRISHNAN

HON'BLE MR.JUSTICE S.J. VAZIFDAR

1. Whether Reporters of Local Papers may be allowed to see the judgement ?
2. To be referred to be Reporter or not ?
3. Whether Their Lordships wish to see the fair copy of the judgement ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judges ?
6. Whether the case involves an important question of law and whether a copy of the judgment should be sent to Nagpur, Aurangabad and Goa Offices ?